

**COPY**

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

LENOX TOWNSHIP,  
WARREN COUNTY, ILLINOIS

Petitioner,

v.

STATE OF ILLINOIS, DEPARTMENT OF  
TRANSPORTATION, and  
BURLINGTON NORTHERN AND  
SANTA FE RAILWAY COMPANY,

Respondents.

)  
)  
)  
) Case No. T03-0022  
)  
)  
)  
)  
)  
)  
)  
)

**RECEIVED**  
AUG 14 2003  
Illinois Commerce Commission  
RAIL SAFETY SECTION

**MOTION TO RECONSIDER**

Comes now Lenox Township, by its attorneys, HATTERY, SIMPSON, & WEST,  
and in support of this Motion to Reconsider, states:

1. Lenox Township had engaged in negotiations with the BNSF and the State regarding the closure of two railroad crossings. One crossing was a grade separation crossing, located at TR 169 at milepost 195 and is assigned DOT No. 004 702 J. The second crossing is an at-grade crossing located at TR 70 (600E) at milepost 195.2 and is assigned DOT No. 004 703R.
2. Prior to March of 2002, Lenox Township filed an application as an initial step toward receiving funds from the Grade Crossing Protection Fund. This application makes reference to the at-grade crossing listed as DOT No. 004703R.
3. On March 20, 2003, Lenox Township filed a Petition requesting authorization of the closing of a crossing and payment from the Grade Crossing Protection Fund in the amount of \$25,000.

**DOCKETED**

4. Said petition erroneously described the grade separation crossing, making reference to TR 169 and DOT No. 004 702 J.
5. A hearing was held on said petition on May 22, 2003. At the hearing, Milo Sprout, Lenox Township Highway Commissioner, testified that the Township sought no payment from the Grade Crossing Protection Fund for the closing of the grade separation structure. Rather, the Township sought payment only for the at-grade closing on TR 70 (600E) known as DOT No. 004703R.
6. The Commission entered its order, denying the petition, on July 9, 2003. The bases for the Commission's denial are:
  - a. The untimely filing of the petition; and
  - b. The request for payment for a grade separation closure.
7. Lenox Township thought the misunderstanding regarding the two closures had been made clear at the hearing.
8. Although it does not agree, Lenox Township understands the Commission's position on the issue of the purported untimely filing.
9. However, Lenox Township requests reconsideration of the order dated July 9, 2003 to accurately reflect the correct crossing in question, to-wit: TR 70 (600E) at the location of the at-grade crossing created at the intersection of TR 70 (600E) at the trackage of BNSF at Milepost 195.2, DOT No. 004703R.

WHEREFORE, Lenox Township respectfully requests the Commission enter an order which accurately reflects Lenox Township's request for funds payable as a result of the closure of the at-grade crossing located at TR 70 (600E), milepost 195.2, DOT No.004703R, and for all other relief proper in the premises.

HATTERY, SIMPSON & WEST

By: Molly E. Palmer  
Molly E. Palmer

HATTERY, SIMPSON & WEST  
Suite 402, Hill Arcade  
Galesburg, IL 61401  
(309) 343-6152  
Attorneys for Lenox Township

**PROOF OF SERVICE**

Molly E. Palmer deposes and says that on the 7<sup>th</sup> 13<sup>th</sup> day of August, 2003 she caused to be served via U.S. Mail in Galesburg, Illinois, a true and correct copy of MOTION TO RECONSIDER upon:

Judge Rick Korte,  
Chief Administrative Law Judge  
Review & Examination Program  
527 East Capitol Avenue, 9<sup>th</sup> Floor  
Springfield, IL 62701

Michael L. Sazdanoff  
Kenneth J. Wysoglad & Associates  
118 South Clinton Street  
Suite 700  
Chicago, IL 60661

Illinois Department of Transportation  
Attention: Mr. James Easterly  
2300 South Dirksen Parkway  
Springfield, IL 62764

Illinois Commerce Commission  
Railroad Section  
Attention: Mr. Henry Humphries  
527 East Capitol Avenue  
Springfield, IL 62701

Molly E. Palmer  
Molly E. Palmer